



उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

12

आदेश पत्रक

मामला क्रमांक ८४८१६७० सन् २००१

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>HIGH COURT OF CHHATTISGARH AT BILASPUR</u> <u>CRIMINAL APPEAL NO. 670 OF 2001</u> <u>DIVISION BENCH:</u> HON. SHRI L.C. BHADOO, & HON. SHRI DHIRENDRA MISHRA, JJ Appellant : Setram, S/o Dev Singh aged 30 years, R/o Village Tedhona, P.S. Baghbahara. Versus Respondent : State of Chhattisgarh Through-P.S. Baghbahara ----- Presence: Ms. Nirupma Bajpai, counsel for the appellant. Mr. Akhil Mishra, Panel Lawyer for the State. ----- <u>ORAL JUDGMENT</u> (13th April 2007) <u>PER L.C. BHADOO, J</u> This appeal is directed against the judgment of conviction and order of sentence dated 31st May 2001 passed by learned 2nd Additional Sessions Judge, Mahasamund (C.G.) in Sessions Trial No. 183/2000 whereby the learned Additional Sessions Judge after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code, sentenced him to undergo imprisonment for life.	

(पीछे देखिये)

आदेश पत्रक

मामला क्रमांक C.C.A. 670 सन् 2001

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2. Case of the prosecution, in brief, is that on 17.1.2000 at about 2.00 p.m. accused/appellant Setram attacked his daughter Yuktibai with pickaxe. The crime in question was witnessed by Avanbai, wife of the accused and mother of the deceased. The pickaxe was snatched by Devsingh, father of the accused Setram. The matter was reported by Devsingh under Ex.P/13, based on that First Information Report (Ex.P/14) was registered by Police Station Baghbahara, for commission of the offence under Section 302 of the IPC. Investigating officer after registration of crime, left for the scene of occurrence and after giving notice to the Panchas, prepared the inquest (Ex.P/6) on the body of deceased Yuktibai. Body of deceased Yuktibai was sent for postmortem examination to Primary Health Centre, Khariar Road where Dr. Jagmani Sahu (PW-7) conducted postmortem and prepared the postmortem report (Ex.P/7). He opined that mode of death is syncope due to injury to liver and stomach. Pickaxe was sent to the medical officer, PHC, Khariar (Orissa) under Ex.P/8A for examination and opinion. The doctor gave his opinion under Ex.P/8 that injuries 1 to 4 sustained on the body of the deceased can be caused by longer projected portion of the iron part of the weapon. Site plan (Ex.P/9) was prepared by the investigating officer. After completion of the investigation charge sheet was filed against accused Setram for the offence under Section 302 of the IPC and another accused Devsingh for the offence under Section 201 of the IPC in the Court of Chief Judicial Magistrate, Mahasamund who in turn committed	

300/11-2001 (पीछे देखिये)

आदेश पत्रक

मामला क्रमांक C.A...670... सन् 2001

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	the case to the Sessions Judge, Raipur from where learned Additional Sessions Judge received the case on transfer for trial. 3. Prosecution examined 13 witnesses at the trial in order to establish the charge against the accused persons. Statements of the accused persons were recorded under Section 313 of the Cr.P.C. in which they denied the material appearing against them in the prosecution evidence and pleaded innocence and false implication in the crime in question. 4. Learned Additional Sessions Judge after hearing counsel for the respective parties convicted and sentenced the accused/appellant as aforementioned and convicted accused Devsingh under Section 201 of the IPC and sentenced him to undergo R.I. for six months. It appears that accused Devsingh has not preferred any appeal against his conviction. 5. We have heard Ms. Nirupma Bajpai, counsel appearing on behalf of the accused/appellant and Mr. Akhil Mishra, Panel Lawyer for the State/respondent. 6. Homicidal death of Yuktibai has not been disputed by Ms. Nirupma Bajpai. Moreover, from the evidence of PW-12 Avanbai, mother of the deceased and wife of the accused and PW-7 Dr. Jagmani Sahu, it is established that death of Yuktibai was homicidal in nature.	

(पीछे देखिये)

आदेश पत्रक

मामला क्रमांक ... 200/

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित ५	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	7. As far as involvement of the accused/appellant in crime in question is concerned, in this case except PW-12 Avانبai, all other witnesses have turned hostile and they have not supported the prosecution case. PW-12 Avانبai has stated that at the time of incident, she was cooking meal, construction of the adjoining house was going on where the children were playing. Her husband Setram attacked her daughter Yuktibai with pickaxe and on hearing the sound she came out of the house and saw that accused was standing there holding pickaxe in his hand. Her daughter Yuktibai was lying down on the ground, blood was oozing out of her stomach and till then she was alive. At that time her father-in-law Devsingh snatched the pickaxe from accused Setram. She being frightened went to the house of her mother-in-law along with Yuktibai. Her father-in-law Devsingh took her daughter to Raja Khariar Hospital where she succumbed to the injuries at about 6.00 O' clock in the morning. 8. Learned counsel for the accused/appellant argued that as per evidence of PW-12 Avانبai, in fact she had not witnessed the assault made by accused Setram, therefore, on the evidence of Avانبai accused cannot be held guilty for commission of the crime. 9. On the other hand, learned counsel for the State supported the judgment of the trial Court.	

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक ..C.A..672.. सन् 2001

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 5	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	10. From the evidence of Avanbai (PW-12) it appears that at the time of incident she was cooking meal and after hearing the sound, she came out and saw her daughter Yuktibai lying in an injured condition, blood was oozing out of stomach and that accused was standing there holding pickaxe in his hand, which was subsequently snatched by her father-in-law Devsingh. This fact has not been challenged by the accused/appellant in the cross-examination and he has not explained as to how he was present on the scene of occurrence holding pickaxe in his hand and as to how his daughter Yuktibai sustained fatal injury on the stomach. Therefore, in view of the evidence of Avanbai that after hearing the sound, she immediately came out and saw the accused standing near injured Yuktibai holding pickaxe in his hand, which was seized by the police and sent to examination to Dr. Jagmani Sahu (PW-7), who has stated that injury sustained on the body of Yuktibai can be caused by the longer projected portion of the iron part of the pickaxe, moreover, Avanbai (PW-12) is mother of the deceased and wife of the accused, therefore, there was no reason before her to implicate her husband i.e accused Setram, in a false case, that too, in such a heinous crime for committing the murder of her own daughter, it is established that accused was author of the crime in question. 11. In the cross-examination it has come on record that accused was suffering from unsoundness of mind at the time of commission	

06/01/02 (पीछे देखिये)

आदेश पत्रक

मामला क्रमांक ८०००/२०१० सन् २०० /

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित 6	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	of the crime but except that, neither any medical evidence has been adduced by the defence to substantiate it nor the accused in his statement under Section 313 of the Cr.P.C. has stated that he was suffering from unsoundness of mind at the time of commission of offence, therefore, he was not able to understand the consequences of the act he was doing. Therefore, there is nothing on record to show that accused was suffering from unsoundness of mind at the time of incident. 12. For the foregoing reasons, we are of the considered opinion that there is no illegality or infirmity in the impugned judgment of the trial Court. The appeal being devoid of substance is liable to be dismissed and is hereby dismissed.	
	Sd/- L.C. BHADOO Judge	Sd/- DHIRENDRA MISHRA Judge

(पीछे देखिये)